

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ASTORIA FEDERAL SAVINGS AND LOAN,

Plaintiff,

v.

KIM, et al.,

Defendants.

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Civil Case No. 07-0647 (FSH)

OPINION and ORDER

Date: October 23, 2007

HOCHBERG, District Judge

This matter having come before the Court upon Plaintiff Astoria Federal Savings and Loan's ("Astoria") October 6, 2007 Motion to Vacate the Stay and Reinstate the Foreclosure Proceedings, and the Court having considered Plaintiff's arguments on the papers pursuant to Federal Rule of Civil Procedure 78;¹ and

it appearing that in an October 11, 2007 order the Court deemed Plaintiff's Motion to Vacate the Stay and Reinstate the Foreclosure Proceedings a Motion to Enforce the Settlement Agreement pursuant to the Court's June 12, 2007 order retaining jurisdiction over the terms of the settlement agreement; and

it appearing that in its October 11, 2007 order the Court ordered Defendants Kim and Kim to show cause by October 22, 2007 why this Court should not enter judgment against them in an amount equal to the outstanding balance under the parties' settlement agreement; and

¹ Defendants Kim and Kim did not oppose Plaintiff's motion.

it appearing that Defendants Kim and Kim have failed to show cause why the Court should not enter judgment against them in an amount equal to the outstanding balance under the parties' settlement agreement;

ACCORDINGLY IT IS on this 23rd day of October, 2007, thereby

ORDERED that Plaintiff Astoria have judgment against Defendants Kim and Kim in an amount equal to the outstanding balance under the parties' settlement agreement; and it is further

ORDERED that, pursuant to Federal Rule of Civil Procedure 55(b)(2), Plaintiff Astoria shall submit proof of the outstanding balance under the parties' settlement agreement by **October 30, 2007.**²

/s/ Faith S. Hochberg

HON. FAITH S. HOCHBERG, U.S.D.J.

² Astoria's Motion to Vacate the Stay is unclear as to the outstanding balance under the parties' settlement agreement. Plaintiff notes that "Defendants Kim have failed to make the agreed to payments." (See Notice of Motion to Vacate the Stay and Reinstate Foreclosure Proceedings ¶ 5.) This statement is not sufficiently precise as to whether Defendants Kim failed to make any payment, or whether Defendants made one or more partial or full payments prior to Astoria's determination that Defendants were in breach of the settlement agreement.

Pursuant to Rule 55(b)(2), the Court may order the submission of additional evidence to determine damages. Rule 55(b)(2) states that "[i]f, in order to enable the court to enter judgment...it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper...." Fed. R. Civ. P. 55(b)(2).